THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.24340 of 2005

Dated: 31.08.2006

Between
J.Laxma Reddy

…..Petitioner

and

1.The Commissioner & Director, Hyderabad
Agricultural Market Committee
BRKR Building, Tank Bund, Hyderabad
And others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.24340 of 2005

ORDER:

This writ petition is filed seeking a Mandamus to declare the proceedings dated 22.9.2004 of the 3rd respondent in rejecting the application of the petitioner for grant of licence as commission agent at L.B.Nagar Vegetable Market Yard as arbitrary, illegal and against the provisions of Article 21 and 300 of the Constitution of India and consequently to direct the respondents to grant licence under Section 7 (1) of the A.P (Agricultural produce and live stock) Markets Act, 1966. (for short 'the Act').

It appears that the petitioner submitted his application for grant of licence under section 7 (1) the Act, which was rejected under the impugned order dated 22.9.2004 on the ground that the petitioner has not satisfied the provisions of Rules 65 to 67 of Market Rules, 1969. In the impugned order it is further stated that as per by-laws No.20(d) and as per Rules 65 to 67 of the Market Rules 1969, the Commission

agent should issue Takpatti and Amanathpatti, and that those Takpatti and Amanathpatti were not furnished, therefore, the application of the petitioner seems to have been rejected.

Learned counsel for the petitioner rightly stated that neither Rule 65 nor Rule 66 have any relevance to the facts and circumstances of this case. Unless and until the licence under Section 7 (1) is granted, the question of issuing Takpatti and Amanathpatti does not arise.

Whereas the learned counsel for the respondents strenuously contended that unless and until the requirements of Rule 67 of AP (Agricultural produce and live stock) of Market Rules are fulfilled, the question of granting any licence under Section 7 (1) of the Act does not arise. He further submitted that the petitioner is not entitled to grant of licence as a matter of right. The authorities are supposed to examine the requirements and then only grant the licence.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material available on record.

At the outset, I am of the opinion that the application of the petitioner was not properly considered and the authorities have not

considered the case of the petitioner in proper perspective. They ought not have rejected the application of the petitioner on the ground that the petitioner has not satisfied the provisions of Rule 65 and 66 of the Act. Such rules can be invoked only when necessary licence is granted as per section 7 (1) of the Act. However, it is the submission of the learned counsel for the respondents that the conditions and Rule 67 are required to be satisfied for grant of licence under Section 7 (1) of the Act. But the very rejection order does not seem to have been made after asking the petitioner to fulfill the deficiencies in the application. No opportunity to satisfy the said deficiencies was given to the petitioner. On the basis of a Judgment of this Court and on the basis of provisions of Rules 65 to 67, the application of the petitioner was straight away rejected. I am of the opinion that the impugned order suffers from gross violation of principle of natural justice. Therefore, the impugned order is liable to be set aside.

Accordingly, the impugned order is set aside. The respondents are directed to consider the application of the petitioner afresh and if there are any deficiencies, they are at liberty to issue notice to the petitioner to comply the deficiencies. After complying such

deficiencies, the petitioner shall re-submit application. Thereafter, the respondents shall consider the same for grant of licence in favour of the petitioner as per rules.

Writ petition is, accordingly, allowed. No costs.

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1.9.2006

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